

REMARKS

Claims 1-3 and 34-40 are pending in the present application. Claims 1-3 and 34-40 are rejected over prior art. Applicants request reconsideration and allowance in view of the following remarks.

CLAIM REJECTIONS – 35 USC §103

Claims 1, 3, 34, 35, 37 and 40 are rejected under 35 USC 103(a) as being unpatentable over Sladek et al. (USP 6,622,016) in view of Sawyer (USP 5,828,737) and in further view of Gidwani (USP 6,640,239). Applicants traverse this rejection.

With regard to claim 1, the Examiner alleges that Sladek et al. discloses that a base station controller establishes and maintains communication between a wireless unit and a wireless network. (FIGS. 6-7; column 23, lines 22-31; column 13, lines 54-64). Sladek et al. fails to disclose a service data node module in direct operative communication with the base station controller and a home location register (HLR) to coordinate applications and services supported by the (HLR). However, the Examiner alleges that Sawyer teaches such a feature.

The Examiner specifically cites reference numeral 40 of FIG. 2, and column 5, lines 6-15, in Sawyer, as disclosing a service data node module in direct operative communication with the base station controller and a home location register (HLR) to coordinate applications and services supported by the (HLR).

Sawyer is directed to a passive monitoring system which bills users of communication devices based on a level of bandwidth use. Sawyer is directed to billing users of cellular phones that access the internet based on a metric other than a duration of internet usage.

The metric used by Sawyer is an amount of bandwidth used by the user which is calculated with “a bandwidth use monitoring device (BUMD) 40 connected to either one or both of the nodes 12 and 14 and operable to make measurements for each communication carried over the communications link 18 of the instantaneous amount of bandwidth being

used by the communication” (col. 4, lines 51-57). The BUMD 40 sends the instantaneous bandwidth used to a bandwidth meter 46 which measures an average amount of bandwidth use for the user (see col. 4, lines 59 and 64). A processing device 42 determines a total bandwidth usage based on the average bandwidth usage and multiplies the bandwidth usage by a charging rate to determine how much to bill the user (see col. 4, line 67 – col. 5, line 5).

Figure 2 of Sawyer illustrates that the bandwidth meter 46 may be attached to the mobile switching center (MSC) 30 to passively monitor communications (including bandwidth usage) of individual users. Accordingly, Sawyer’s bandwidth meter 46 (which includes the BUMD 40 and the processor 42 and serves as the sole connection to the billing center 44) handles no service creation, service negotiation and/or service selection. This is because the bandwidth meter 46 merely passively monitors communications in order to bill the user. In Sawyer, services are allocated to the user through a service provider, not the bandwidth meter 46. In other words, service creation and/or service negotiation must be preformed through a service provider in Sawyer. Sawyer does not disclose “a billing manager in operative communication with the service data node module, to bill the user based on the user implemented service creation and service negotiation.”

Also, the section cited by the Examiner discloses in part that “mobile switching center 30 includes or connected to a bandwidth use monitoring device [BUMD] operable to make measurements, for each call carried over the air interface 26, of the instantaneous amount of bandwidth being used for the call.” The Examiner is of the opinion that measuring bandwidth use for a call carried over an air interface is a service typically supported by a HLR. Therefore, it would have been obvious for a person of ordinary skill to modify Sladek et al. in view of Sawyer.

With all due respect, the Examiner is making an argument, without offering evidence or support for the Examiner’s position. A person of ordinary skill knows that a home location register (HLR) is typically used to store users profile. The HLR also typically

supports a wireless network's ability to deliver calls, enhance services, information, and messages to customers. See page 3, of the present application. The HLR does not provide a service of measuring bandwidth use for a call carried over an air interface. If the Examiner's opinion is correct and the HLR provides a service of measuring bandwidth use for a call carried over an air interface, then the Sawyer reference must disclose a HLR as having this feature. But the Examiner uses Sladek et al. as disclosing the HLR (FIGS. 6-7; column 23, lines 11-20), which means that the Examiner is making an assumption and/or conclusion based on teachings and suggestions **NOT** found in either Sladek et al. or Sawyer.

In addition, Gidwani also fails to cure the deficiencies of both Sladek et al. and Sawyer. Accordingly, claim 1 is patentable over the Examiner's cited references individually or in combination thereof. Claim 3, which depends on claim 1, is also patentable for the same reasons given above with respect to the patentability of claim 1 and for additional features recited thereby.

Regarding claim 34, the Examiner alleges that Sladek et al. discloses establishing a database in a wireless network, and providing services into the database. Specifically, the Examiner alleges that a home location register (HLR) is the database in the wireless network. Column 14, line 57 to column 15, line 5. The Examiner also alleges Sawyer discloses billing a user based on the selected service. The Examiner further alleges that the combination of the Sladek et al. and Sawyer fails to disclose "allowing a user to select a service by accessing the database without service provider intervention," but Gidwani discloses such a feature.

In column 6, lines 51-65, Gidwani discloses that a subscriber may provision (access) his own service without the intervention of the service provider. But this section does not describe in detail this particular feature. Applicants also submit that column 23, lines 28-65, discloses that a data stream may be compressed and decompressed. It also discloses that a UIP server 226 can support a voice over IP, and perform edge switching and edge routing.

However, column 23, lines 28-65, does not disclose that a subscriber may provision (access) his own service without the intervention of the service provider.

Gidwani discloses that a customer may configure the performance of his service. The service being an internet service (digital service line), and not a wireless communication service. Column 7, lines 9-25. The Examiner alleges that *Gidwani* is analogous art and that it would have been obvious for a person of ordinary skill to combine the teachings of *Sladek et al.*, *Sawyer*, and *Gidwani*. Applicants disagree.

The Examiner alleges that a HLR of *Sladek* relates to a database. Assuming that a HLR is a database, Applicants submit that a typical definition of a HLR, as defined by <http://searchnetworking.techtarget.com> is:

The Home Location Register (HLR) is the main database of permanent subscriber information for a mobile network. The HLR is an integral component of CDMA (code division multiple access), TDMA (time division multiple access), and GSM (Global System for Mobile communications) networks. Maintained by the subscriber's home carrier (or the network operator where the user initiated the call), the HLR contains pertinent user information, including address, account status, and preferences. The HLR interacts with the Mobile Switching Center (MSC), which is a switch used for call control and processing.

Even if the teachings of *Sladek et al.* and *Gidwani* are combined, the combination would teach a subscriber of **internet service** having access to a database maintained by a **wireless provider**; and access to a database, which contains pertinent user information, including address, account status, and preferences, but access to a database, which contains no services.

Applicants respectfully submit even if the teachings of *Sladek et al.*, *Gidwani*, and *Sawyer* are combined, the combination would still fail to disclose all the features of claim 34. Accordingly, claim 34 is patentable over the Examiner's cited references individually or in combination thereof. Claims 35, 37, and 40 which depend on claim 34, are also patentable

for the same reasons given above with respect to the patentability of claim 1 and for additional features recited thereby.

Claims 2 and 36 are rejected under 35 USC §103(a) as being unpatentable over Sladek et al. in view of Sawyer and Gidwani and in further view of Bianconi et al.

Claims 2 and 36 are patentable for the same reasons given above with respect to the patentability of base claims 1 and 34, respectively. In addition, Bianconi et al. fails to cure deficiencies noted in Sladek et. al, Sawyer, and Gidwani.

Claim 38 is rejected under 35 USC §103(a) as being unpatentable over Sladek et al. in view of Sawyer and Gidwani and in further view of Lohtia et al.

Claims 38 is patentable for the same reasons given above with respect to the patentability of base claim 34. In addition, Lohtia et al. fails to cure deficiencies noted in Sladek et. al, Sawyer, and Gidwani.

Claim 39 is rejected under 35 USC §103(a) as being unpatentable over Sladek et al. in view of Sawyer and Gidwani and in further view of Sarkki et al.

Claims 39 is patentable for the same reasons given above with respect to the patentability of base claim 34. In addition, Sarkki et al. fails to cure deficiencies noted in Sladek et. al, Sawyer, and Gidwani.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-3 and 34-40 in connection with the present application is earnestly solicited.

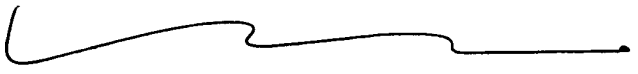
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



Gary D. Yacura, Reg. No. 35,416

for US, 261
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY/LYP:ame